

U.S. Department of Justice

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JCC:KKB
90-11-3-562



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Washington, D.C. 20530

January 16, 1992

William T. Walsh
Clerk of the court
United States District Court
District of New Jersey
U.S. Courthouse & P.O. Bldg.
Newark, N.J. 0701

RECEIVED
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Re: United States v. Lecarreux et al.
Civ. No. 90-1672

Dear Mr. Walsh:

Enclosed please find an original and three copies of the Plaintiff United States' Proposed Findings of Fact and Conclusions of Law in the above-referenced case. Also enclosed, as requested by the Court, is a bound copy of the original exhibits entered into evidence during trial.

Please return a file stamped copy of the Proposed Findings to me in the enclosed Federal Express envelope.

Thank you very much for your attention to these matters.

Sincerely,

Acting Assistant Attorney
General
Environment and Natural Resources
Division

By:

Katharine K. Baker

Katharine K. Baker
Attorney
Environmental Enforcement Section
Environment and Natural Resources
Division

volumetric or toxicity evidence upon which to make such a mitigation determination in this case.

CONCLUSION

The United States is entitled to recover its full response costs of \$346,646.28, for which defendants are jointly and severally liable. In addition, the United States is entitled to punitive damages under CERCLA Section 107(c)(3) and civil penalties under CERCLA Section 106(b). Because the two penalty provisions address different purposes, assessments must be made under both provisions. The fact that this court makes an award under both provisions does not necessarily increase the amount that these defendants have to pay; both provisions leave the court discretion in determining a final amount. However, in maintaining the integrity of the statutory scheme, it is important that both wrongs, the failure to respond to the AO and the continued recalcitrance that forced the United States to incur response costs, be addressed. Thus, the Court awards a total amount of \$1,998,336 against defendant Lecarreux and \$1,886,336 against defendant Lightman, with \$228,336.81 of each total amount being attributable to punitive damages under CERCLA Section 107(c)(3).